

## CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

## I. (a) PLAINTIFFS

MICHELLE MCFADDEN

(b) County of Residence of First Listed Plaintiff Delaware County  
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Amy L. Bennecoff Ginsburg, Esq., Kimmel & Silverman, PC,  
30 E. Butler Ave., Ambler, PA, 19002, (215)540-8888

## II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input checked="" type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)  
(For Diversity Cases Only)

Citizen of This State	PTF	DEF	Citizen of Another State	PTF	DEF
<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	
			<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State
			<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation

## IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<b>PERSONAL INJURY</b>	<b>PERSONAL INJURY</b>	<input type="checkbox"/> 610 Agriculture	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury - Med. Malpractice	<input type="checkbox"/> 620 Other Food & Drug	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury - Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881	<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assault, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability	<input type="checkbox"/> 630 Liquor Laws	<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud	<input type="checkbox"/> 640 R.R. & Truck	<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending	<input type="checkbox"/> 650 Airline Regs.	<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 660 Occupational Safety/Health	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 690 Other	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability			<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input checked="" type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRISONER PETITIONS		
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<b>Habeas Corpus:</b>	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 General	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 535 Death Penalty	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 540 Mandamus & Other	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 550 Civil Rights		<input type="checkbox"/> 900Appeal of Fee Determination Under Equal Access to Justice
	<input type="checkbox"/> 440 Other Civil Rights	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 950 Constitutionality of State Statutes
LABOR				
<input type="checkbox"/> 710 Fair Labor Standards Act				
<input type="checkbox"/> 720 Labor/Mgmt. Relations				
<input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act				
<input type="checkbox"/> 740 Railway Labor Act				
<input type="checkbox"/> 790 Other Labor Litigation				
<input type="checkbox"/> 791 Empl. Ret. Inc. Security Act				
IMMIGRATION				
<input type="checkbox"/> 462 Naturalization Application				
<input type="checkbox"/> 463 Habeas Corpus - Alien Detainee				
<input type="checkbox"/> 465 Other Immigration Actions				
FEDERAL TAX SUITS				
<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)				
<input type="checkbox"/> 871 IRS—Third Party				
			26 USC 7609	

## V. ORIGIN

(Place an "X" in One Box Only)

1 Original Proceeding  2 Removed from State Court  3 Remanded from Appellate Court  4 Reinstated or Reopened  5 Transferred from another district (specify)  6 Multidistrict Litigation  7 Appeal to District Judge from Magistrate Judgment

## VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

47 U.S.C. §227  
Brief description of cause:  
Telephone Consumer Protection Act

## VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION  
UNDER F.R.C.P. 23

DEMAND \$

CHECK YES only if demanded in complaint:  
JURY DEMAND:  Yes  No

## VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

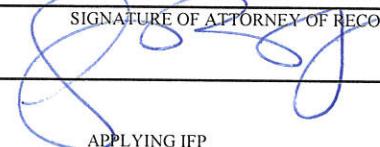
DOCKET NUMBER

DATE

04/12/2016

FOR OFFICE USE ONLY

SIGNATURE OF ATTORNEY OF RECORD



RECEIPT #

AMOUNT

APPLYING IFP

JUDGE

MAG. JUDGE

FOR THE EASTERN DISTRICT OF PENNSYLVANIA — DESIGNATION FORM to be used by counsel to indicate the category of the case for the purpose of assignment to appropriate calendar.

Address of Plaintiff: 613 Willow Way, Glenolden, PA 19036

Address of Defendant: N56w17000 Ridgewood Drive, Menomonee Falls, Wisconsin 53051

Place of Accident, Incident or Transaction: \_\_\_\_\_  
(Use Reverse Side For Additional Space)

Does this civil action involve a nongovernmental corporate party with any parent corporation and any publicly held corporation owning 10% or more of its stock?

(Attach two copies of the Disclosure Statement Form in accordance with Fed.R.Civ.P. 7.1(a))

Yes  No

Does this case involve multidistrict litigation possibilities? Yes  No

RELATED CASE, IF ANY:

Case Number: \_\_\_\_\_ Judge: \_\_\_\_\_ Date Terminated: \_\_\_\_\_

Civil cases are deemed related when yes is answered to any of the following questions:

1. Is this case related to property included in an earlier numbered suit pending or within one year previously terminated action in this court?

Yes  No

2. Does this case involve the same issue of fact or grow out of the same transaction as a prior suit pending or within one year previously terminated action in this court?

Yes  No

3. Does this case involve the validity or infringement of a patent already in suit or any earlier numbered case pending or within one year previously terminated action in this court?

Yes  No

4. Is this case a second or successive habeas corpus, social security appeal, or pro se civil rights case filed by the same individual?

Yes  No

CIVIL: (Place  in ONE CATEGORY ONLY)

A. *Federal Question Cases:*

1.  Indemnity Contract, Marine Contract, and All Other Contracts
2.  FELA
3.  Jones Act-Personal Injury
4.  Antitrust
5.  Patent
6.  Labor-Management Relations
7.  Civil Rights
8.  Habeas Corpus
9.  Securities Act(s) Cases
10.  Social Security Review Cases

11.  All other Federal Question Cases – 47 U.S.C. §227

(Please specify) \_\_\_\_\_

B. *Diversity Jurisdiction Cases:*

1.  Insurance Contract and Other Contracts
2.  Airplane Personal Injury
3.  Assault, Defamation
4.  Marine Personal Injury
5.  Motor Vehicle Personal Injury
6.  Other Personal Injury (Please specify)
7.  Products Liability
8.  Products Liability — Asbestos
9.  All other Diversity Cases

(Please specify) \_\_\_\_\_

#### ARBITRATION CERTIFICATION

(Check Appropriate Category)

I, \_\_\_\_\_, counsel of record do hereby certify:

Pursuant to Local Civil Rule 53.2, Section 3(c)(2), that to the best of my knowledge and belief, the damages recoverable in this civil action case exceed the sum of \$150,000.00 exclusive of interest and costs;

Relief other than monetary damages is sought.

DATE: 04/12/2016

Attorney-at-Law

202745

Attorney I.D.#

NOTE: A trial de novo will be a trial by jury only if there has been compliance with F.R.C.P. 38.

I certify that, to my knowledge, the within case is not related to any case now pending or within one year previously terminated action in this court except as noted above.

DATE: 04/12/2016

Attorney-at-Law

202745

Attorney I.D. #

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

**CASE MANAGEMENT TRACK DESIGNATION FORM**

MICHELLE MCFADDEN : CIVIL ACTION

:  
v. :  
:

KOHL'S CORPORATION : NO.

In accordance with the Civil Justice Expense and Delay Reduction Plan of this court, counsel for plaintiff shall complete a Case Management Track Designation Form in all civil cases at the time of filing the complaint and serve a copy on all defendants. (See § 1:03 of the plan set forth on the reverse side of this form.) In the event that a defendant does not agree with the plaintiff regarding said designation, that defendant shall, with its first appearance, submit to the clerk of court and serve on the plaintiff and all other parties, a Case Management Track Designation Form specifying the track to which that defendant believes the case should be assigned.

**SELECT ONE OF THE FOLLOWING CASE MANAGEMENT TRACKS:**

(a) Habeas Corpus – Cases brought under 28 U.S.C. § 2241 through § 2255. ( )

(b) Social Security – Cases requesting review of a decision of the Secretary of Health and Human Services denying plaintiff Social Security Benefits. ( )

(c) Arbitration – Cases required to be designated for arbitration under Local Civil Rule 53.2. (X)

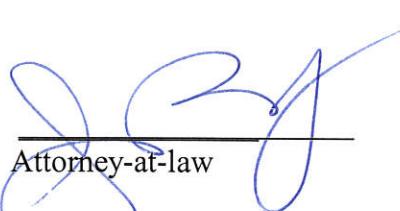
(d) Asbestos – Cases involving claims for personal injury or property damage from exposure to asbestos. ( )

(e) Special Management – Cases that do not fall into tracks (a) through (d) that are commonly referred to as complex and that need special or intense management by the court. (See reverse side of this form for a detailed explanation of special management cases.) ( )

(f) Standard Management – Cases that do not fall into any one of the other tracks. ( )

04/12/2016  
Date

215-540-8888  
Telephone

  
\_\_\_\_\_  
Attorney-at-law  
215-540-8817  
FAX Number

Amy L. B. Ginsburg, Esquire  
Attorney for Plaintiff

aginsburg@creditlaw.com  
E-Mail Address

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

MICHELLE MCFADDEN, )  
Plaintiff, ) Case No.:  
v. )  
KOHL'S CORPORATION, ) JURY TRIAL DEMANDED  
Defendant. )

## COMPLAINT

MICHELLE MCFADDEN (“Plaintiff”), by and through her attorneys, KIMMEL & SILVERMAN, P.C., alleges the following against KOHLS CORPORATION (“DEFENDANT”):

## INTRODUCTION

1. Plaintiff's Complaint is based on the Telephone Consumer Protection Act, 47 U.S.C. §227.

## JURISDICTION AND VENUE

2. Jurisdiction of this Court arises pursuant to 28 U.S.C. §1331. See Mims v. Arrow Fin. Services, LLC, 132 S. Ct. 740, 747, 181 L. Ed. 2d 881 (2012).

3. Defendant regularly conducts business in the Commonwealth of Pennsylvania, thus, personal jurisdiction is established.

4. Venue is proper pursuant to 28 U.S.C. § 1391(b)(2).

## PARTIES

5. Plaintiff is a “person” as that term is defined by 47 U.S.C. §153(39).

6. Plaintiff is a natural person residing in Glenolden, Pennsylvania

7. Defendant is a "person" as that term is defined by 47 U.S.C. §153(39).

8. Defendant is a corporation with its principal place of business located at N56w17000 Ridgewood Drive, Menomonee Falls, Wisconsin 53051.

9. Defendant acted through its agents, employees, officers, members, directors, heirs, successors, assigns, principals, trustees, sureties, subrogees, representatives, and insurers.

## FACTUAL ALLEGATIONS

10. Plaintiff has a cellular telephone number.

11. Plaintiff has only used this number as a cellular telephone number.

12. Beginning in February 2016, Defendant began to contact Plaintiff on her cellular phone

13. When contacting Plaintiff on her cellular telephone, Defendant used an automatic telephone dialing system.

1       14. Plaintiff knew that Defendant used an automatic telephone dialing  
2 system as the calls began with a noticeable delay before she would be transferred  
3 to one of Defendant's representatives.  
4

5       15. Defendant's telephone calls were not made for "emergency purposes;"  
6 rather, Defendant was attempting to contact an unknown third party named Susan  
7 Hodges.  
8

9       16. Plaintiff spoke with Defendant in early March 2016, told them they  
10 had the wrong number and to stop calling her regarding the unknown third party.  
11

12       17. Plaintiff knew it was Defendant calling her because he spoke to female  
13 callers who stated their company name during the calls.  
14

15       18. Once Defendant was told the calls were unwanted and to stop, there  
16 was no lawful purpose to making further calls, nor was there any good faith reason  
17 to place calls.  
18

19       19. Defendant proceeded to ignore Plaintiff's revocation and continued to  
20 call her cellular telephone number.  
21

22       20. Upon information and belief, Defendant conducts business in a  
23 manner which violates the Telephone Consumer Protection Act.  
24  
25  
26  
27

1  
2 **DEFENDANT VIOLATED THE TELEPHONE CONSUMER**  
3 **PROTECTION ACT**

4  
5 21. Plaintiff incorporates the forgoing paragraphs as though the same were  
set forth at length herein.

6  
7 22. Defendant initiated automated calls to Plaintiff using an automatic  
telephone dialing system.

8  
9 23. Defendant's calls to Plaintiff were not made for emergency purposes.

10  
11 24. Defendant's calls to Plaintiff, on and after early March 2016, were not  
made with Plaintiff's prior express consent.

12  
13 25. Defendant's acts as described above were done with malicious,  
intentional, willful, reckless, wanton and negligent disregard for Plaintiff's rights  
under the law and with the purpose of harassing Plaintiff.

16  
17 26. The acts and/or omissions of Defendant were done unfairly,  
unlawfully, intentionally, deceptively and fraudulently and absent bona fide error,  
lawful right, legal defense, legal justification or legal excuse.

20  
21 27. As a result of the above violations of the TCPA, Plaintiff has suffered  
the losses and damages as set forth above entitling Plaintiff to an award of  
statutory, actual and trebles damages.

1 WHEREFORE, Plaintiff, MICHELLE MCFADDEN, respectfully  
2 prays for a judgment as follows:

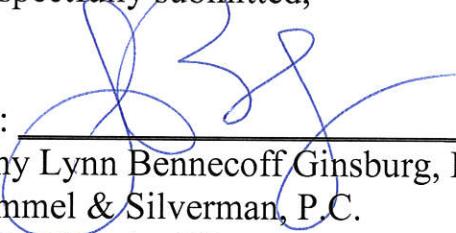
3 a. All actual damages suffered pursuant to 47 U.S.C. §  
4 227(b)(3)(A);  
5  
6 b. Statutory damages of \$500.00 per violative telephone call  
7 pursuant to 47 U.S.C. § 227(b)(3)(B);  
8  
9 c. Treble damages of \$1,500.00 per violative telephone call  
10 pursuant to 47 U.S.C. §227(b)(3);  
11  
12 d. Injunctive relief pursuant to 47 U.S.C. § 227(b)(3);  
13  
14 e. Any other relief deemed appropriate by this Honorable Court.

**DEMAND FOR JURY TRIAL**

15 PLEASE TAKE NOTICE that Plaintiff, MICHELLE MCFADDEN,  
16 demands a jury trial in this case.

17  
18  
19 DATED: April 12, 2016

Respectfully submitted,

20 By:   
21 Amy Lynn Bennecoff Ginsburg, Esq.  
22 Kimmel & Silverman, P.C.  
23 30 East Butler Pike  
24 Ambler, PA 19002  
25 Telephone: (215) 540-8888  
26 Facsimile (215) 540-8817  
27 Email: aginsburg@creditlaw.com  
28 Attorney for Plaintiff